

#### **REMARKS**

The June 30, 2008 Office Action was based upon pending Claims 4, 5 and 7-34. This Amendment amends Claims 4, 7, 9-11, 14, 17, 22, 26, 28 and 30-34. Thus, after entry of this Amendment, Claims 4, 5 and 7-34 are pending and presented for further consideration.

#### **ISSUES RAISED IN THE OFFICE ACTION**

The Office Action rejected Claims 7-34 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Further, the Office Action rejected Claims 4, 7-11, 13-17, 20-30 and 33-34 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,644,726 to Oppenheimer (hereinafter referred to as Oppenheimer), in view of U.S. Publication No. 2002/0091623 to Daniels (hereinafter referred to as "Daniels").

#### **INTERVIEW**

Applicant would like to thank Examiner Hammond for the interview extended to Nelson Schneider and John R. King, on October 23, 2008. During the interview, it was Applicant's understanding that the proposed amendments clarified the patentably distinguishing features of the invention.

Accordingly, Applicant has also amended Claim 7 along the lines discussed in the interview. Reconsideration of the pending claims, as amended, is therefore respectfully requested.

#### **Supplemental Information Disclosure Statement**

Submitted concurrently herewith is a Supplemental Information Disclosure Statement citing eight (8) new references which recently came to Applicant's attention in co-pending U.S. Patent Application No. 10/714,924. Applicant respectfully requests the Examiner to consider the pending claims in connection with these references in order to make them of record.

**REJECTION OF CLAIMS 7-34 UNDER 35 U.S.C. §101**

The Office Action rejected Claims 7-34 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

In response Applicant has amended Claim 7 to recite a computer processor.

**REJECTION OF CLAIMS 4, 7-11, 13-17, 20-30 AND 33-34 UNDER 35 U.S.C. §103(a)**

The Office Action rejected Claims 4, 7-11, 13-17, 20-30 and 33-34 under 35 U.S.C. §103(a) as being unpatentable over Oppenheimer in view of U.S. Publication No. 2002/0091623 to Daniels (hereinafter referred to as Daniels).

**Claim 1**

Claim 1 is directed to a computer-implemented method for creating a partial equity interest in residential property owned by a homeowner. The method comprises creating with a computer processor configured to execute a computerized data interface, a partial equity interest in a residential property occupied by a homeowner, the partial equity interest associated with a non-debt related investment between the homeowner and at least one investor, wherein the partial equity interest in the residential property occupied by the homeowner does not obligate the homeowner to repay the investment made by the investor at anytime.

The creation of the partial equity interest further comprising:

the homeowner obtaining value for the partial equity interest;

the homeowner retaining right to continue to receive one or more tax advantages of ownership of the residential property;

the homeowner retaining right of residency of the residential property, right to make home improvements, and right to determine when to sell the residential property;

the homeowner having an obligation to pay any real estate taxes and mortgage payments, insurance and up keep expenses associated with the residential property,

the homeowner granting a right to the investor to retain the partial equity interest in the residential property upon sale of the residential property, wherein a subsequent

purchaser of the residential property has right to agree whether the investor retains the partial equity interest in the residential property;

the investor waiving one or more rights to control and sale of the residential property, while retaining rights to approve a sales price of the residential property;

the investor waiving right to obtain any potential cash flows from the residential property;

the investor having right to waive the receipt of proceeds from sale of the residential property in exchange for retaining the partial equity interest in the residential property;

the investor collecting a share of proceeds from a future sale of the residential property based on the partial equity interest; and

the investor obtaining right to transfer the partial equity interest in the residential property to other parties.

The Cited References

As discussed in the interview, none of the cited references teach the concept of a partial equity interest in a homeowner occupied residential property, wherein the partial equity interest in the residential property occupied by the homeowner does not obligate the homeowner to repay an investment made by the investor at anytime.

Furthermore, none of the cited references teach the concept of the homeowner granting a right to the investor to retain the partial equity interest in the residential property upon sale of the residential property, wherein a subsequent purchaser of the residential property has right to agree whether the investor retains the partial equity interest in the residential property.

In addition, none of the cited references teach the concept of the investor having right to waive the receipt of proceeds from sale of the residential property in exchange for retaining the partial equity interest in the residential property.

Applicant therefore respectfully submits that Claim 1 is patentably distinguished over the cited references and Applicant respectfully requests allowance of Claim 1.

Claim 5

Claim 5 depends from Claim 1 and is believed to be patentable for the same reasons articulated above with respect to Claim 1, and because of the additional features recited therein.

Claim 7

With respect to Claim 7, none of the cited references teach the concept of a partial equity interest in a homeowner occupied residential property, wherein the partial equity interest in the residential property occupied by the homeowner does not obligate the homeowner to repay an investment made by the investor at anytime.

Furthermore, none of the cited references teach the concept of the homeowner granting a right to the investor to retain the partial equity interest in the residential property upon sale of the residential property, wherein a subsequent purchaser of the residential property has right to agree whether the investor retains the partial equity interest in the residential property.

In addition, none of the cited references teach the concept of the investor having right to waive the receipt of proceeds from sale of the residential property in exchange for retaining the partial equity interest in the residential property.

Applicant therefore respectfully submits that Claim 7 is patentably distinguished over the cited references and Applicant respectfully requests allowance of Claim 7.

Claims 8-11, 13-17, 20-30 and 33-34

Claims 8-11, 13-17, 20-30 and 33-34 depend from Claim 7 and are believed to be patentable for the same reasons articulated above with respect to Claim 7, and because of the additional features recited therein.

**NO DISCLAIMERS OR DISAVOWALS**

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited

references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application.

Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution.

Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**CO-PENDING APPLICATIONS OF ASSIGNEE**

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee:

Application Number	Title	Filed
10/714,922	System And Method For Creating, Selling, And/Or Managing Property Funds In An Investment Market	11-18-2003
10/714,923	System For Conducting A Home Equity Sales Program	11-18-2003
10/714,924	Method For Conducting A Home Equity Sales Program	11-18-2003
11/896,927	Method For Conducting A Home Equity Sales Program	09-06-2007
12/077,404	Method For Managing A Home Equity Sales Program	03-19-2008

Applicant notes that cited references, and office actions currently exist or will exist for of the above-referenced matters. Applicant also understands that the Examiner has access to sophisticated online Patent Office computing systems that provide ready access to, for example, specification and drawing publications, pending claims and complete file histories, including, for example, cited art, office actions, responses, and notices of allowance. In addition, Applicant respectfully requests that the Examiner continue to review these file histories for current information about these matters.

**CONCLUSION**

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10-29-08

By: John R. King

John R. King  
Registration No. 34,362  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

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